

**Remarks**

**I. SUMMARY**

Claims 1-4 are pending in the present application. Claims 1-4 were rejected.

As a preliminary matter, Applicant thanks the Examiner for withdrawal of the previous objections and rejections.

**II. REJECTION UNDER 35 U.S.C. §103**

Claims 1-4 stand rejected to under 35 U.S.C. §103 as allegedly being obvious over JP 2000-264357 in view of Pruckler (U.S. 6,253,951). Applicant respectfully traverses this rejection and requests the withdrawal thereof.

JP 2000-264357 is cited as disclosing a protective cover, but the Action admits that it is silent with respect to radial notches. Pruckler is cited as purportedly teaching a protective cover with notches or slits on a peripheral edge to make folding the cover over the rim of a container easier. Applicant respectfully submits that Pruckler does not teach a cover and that the references are directed to completely different purposes from one another. Thus, Applicant submits that there would be no motivation for one skilled in the art to combine the references to try to arrive at the present invention. Further, even if one were to try to combine the references, one would not arrive at the present invention.

JP 2000-264357 describes a device formed by a disc whose periphery has no notches, but a handling and application lug. In its internal periphery it shows a plurality of small cuts that allow the disc to be deformed and its circumference to encircle and enclose the top of a can, thus providing a temporary retention of the piece after pressure stamping or thermal bonding of the device. In contrast, the present invention provides a circular piece of a laminar material that has a small number of angle-shaped, evenly distributed notches in its external periphery and an equal number of arcuate cuts in its internal periphery, defining passages across which the can rim protrudes, thus retaining the piece on the upper part of the can. No lug is provided in the periphery of the present protective devices.

The present invention is a protective device that is adapted such that it may be applied by a user over the upper base of a can, thus, preventing it from dirt or other contaminants being

deposited on the can, while the can is in storage before consumption of the can contents. In contrast, Pruckler is directed to a crown-shaped device for covering only the rim of a paint can, where the device is adhesively sealed to the inside and outside walls of a paint can. The Pruckler device does not cover the upper base of the can (which can lid has already been removed by the time the device is applied to the can), and does not serve in any way to protect the upper base or the contents of the can from outside dust or contaminants. Rather, the Pruckler device is provided for ease of pouring paint out of the can and to protect the rim of the can from acquiring paint, so the can may later be resealed. Pruckler is directed to a completely different purpose than JP-2000-264357, and to a completely different purpose than the present invention. Thus, Applicant submits that there would be no motivation to combine the very different references.

By way of further distinction from Pruckler, in the present invention no crown-shape is defined, but a discoidal one. Additionally, the present invention does not have a multiplicity of small cuts to simply make folding the cover over the rim of a container easier. Rather the cuts that are provided are of the same number as the concentric curvilinear cuts and are specifically positioned with respect to the curvilinear cuts so as to define peripheral areas of the thin body that can be arranged by flexion below an upper rim formed on an upper portion of a body of a can.

Neither reference alone or in combination teaches or suggests curvilinear cuts “arranged between the radial notches,” so as to define specific peripheral areas of the thin body. This specific arrangement of the curvilinear cuts with respect to radial notches is required by the present claims. It is this specific arrangement in the present invention that provides advantageous fit and retention properties over the rim of a can with light pressure on the circumference of the disc, without requiring a sticking material or thermal bonding. Even if the references were combined they would not arrive at the present invention because neither reference suggests this arrangement or would arrive at the present advantageous results.

For at least the above reasons, Applicant respectfully submits that the present claims are not obvious in view of the cited art. Accordingly, Applicant requests reconsideration and withdrawal of the rejection.

Applicant also notes that the Certificate of Registration has been received with respect to corresponding European Patent No. 1557370. A copy of the Certificate of Registration is attached hereto.

### III. CONCLUSION

Applicant submits that the present claims are in condition for allowance, and therefore respectfully requests withdrawal of each rejection and allowance of the present application.

It is believed that no extensions of time are required with this paper. If, however, any extensions are deemed necessary to prevent abandonment of this application, then extensions of time are hereby petitioned for under 37 C.F.R. §1.136(a), and any fees required, including fees for net addition of claims, are hereby authorized to be charged to account number 50-3120.

Should the Examiner believe that discussion of any remaining issues would advance the prosecution, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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